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Washington, DC 20005

EXAMINER

HURLEY, SHAUN R

ART UNIT PAPER NUMBER

3765

DATE MAILED: 10/24/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/914,572

Applicant(s)

BUCHMULLER, PATRICK

Examiner

Shaun R Hurley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,9-11 and 15 is/are rejected.
- 7) ☒ Claim(s) 3,4,6-8 and 12-14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: _____

DETAILED ACTION

Specification

1. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

2. The disclosure is objected to because of the following informalities:

Page 3, line 24 (fifth paragraph), Applicant refers to specific claim numbers. The numbering of claims can change during prosecution of an application, as well as the content therein. As such, Applicant should delete all references to specific claim numbers and replace them with that which is taught.

Page 4, line 2, what is meant by “[between yarn runs]”?

Page 6, line 33, what is meant by “[nozzle]”?

Page 11, line 11, what is meant by “[sic]”?

Page 11, line 13, what is meant by “[sic; 2d]”?

Appropriate correction is required.

Claim Objections

3. The claims are objected to because they include reference characters which are not enclosed within parentheses.

Reference characters corresponding to elements recited in the detailed description of the drawings and used in conjunction with the recitation of the same element or group of elements in the claims should be enclosed within parentheses so as to avoid confusion with other numbers or characters which may appear in the claims. See MPEP § 608.01(m).

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4. Claim 2 is objected to because Examiner does not know what is meant by “[sic;1]”? Also, claim 2 cannot be dependent off itself. Since claim 1 is the only independent method claim, Examiner understands what Applicant is attempting to claim, but requests Applicant amend claim 1 so as to correct the error. Appropriate correction is required.

5. Claims 3 and 4 are objected to because claim 1 does not teach preparation agent, which claims 3 and 4 require as already taught.

6. Claim 9, line 1, “The “ should read --A--. Line 3, “the yarn channel” should read --a yarn channel--.

7. Claim 15, no specific device is stated. Examiner understands what is intended, but objects to the claim’s form.

8. Claims 4-6, 8, and 12-14 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim.

See MPEP § 608.01(n). Accordingly, the claims not been further treated on the merits.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 5, 10, and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

11. A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. Note the

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explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 5 recites the broad recitation "before the longitudinal center", and the claim also recites "preferably in the first third" which is the narrower statement of the range/limitation. Likewise, claim 10 recites the broad recitation "0-10°", and the claim also recites "preferably 1-6°" which is the narrower statement of the range/limitation.

12. Regarding claim 11, the term "preferably" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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14. Claims 1, 9, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by German Patent (4102790).

The German Patent teaches a method of intermingling filament yarn comprising blowing a medium into a yarn channel of a nozzle at an angle deviation of between 15 and 45 degrees, and well as the intermingling nozzle and its inherent use (Abstract; Figures).

15. Claims 1, 2, 9, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by LeNoir (3577615).

LeNoir teaches a method of intermingling filament yarn comprising blowing a medium comprising preparation agent (Column 3, lines 47-49) into a yarn channel of a nozzle at an angle deviation of between 15 and 45 degrees (Column 2, lines 27-33), and well as the intermingling nozzle and its inherent use (Figure 2).

16. Claims 1, 9, 10, 11, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by McDermott et al (3730413).

McDermott teaches a method of intermingling filament yarn comprising blowing a medium into an untapered yarn channel (Column 2, lines 14-15) of a baffle/nozzle plated nozzle (Figure 2) at an angle deviation of between 15 and 45 degrees (Column 2, line 18), and well as the intermingling nozzle and its inherent use.

Claim Rejections - 35 USC § 103

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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18. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over LeNoir in view of Sear (5964015).

Sear essentially teaches the invention as discussed above, but fails to teach the nozzle is a baffle/nozzle plate assembly, which Sear teaches (Figures). It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to utilize a baffle/nozzle plate assembly so as to provide an easily accessible nozzle. The nozzle of Sear satisfies all the requirements of LeNoir, and the ordinarily skilled artisan would have understood to use the nozzle, allowing the operator access into the inner nozzle yarn channel, allowing for cleaning and replacing of parts rather than the entire nozzle.

19. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over The German Patent in view of Sear (5964015).

The German Patent essentially teaches the invention as discussed above, but fails to teach the nozzle is a baffle/nozzle plate assembly, which Sear teaches (Figures). It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to utilize a baffle/nozzle plate assembly so as to provide an easily accessible nozzle. The nozzle of Sear satisfies all the requirements of the German Patent, and the ordinarily skilled artisan would have understood to use the nozzle, allowing the operator access into the inner nozzle yarn channel, allowing for cleaning and replacing of parts rather than the entire nozzle.

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Allowable Subject Matter

20. Claims 3 and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, as well as correction of any objections/rejections made above concerning clarity.

Conclusion


21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Borenstein et al (4253299) and Waldkirch (3783596) both teach what is well known in the art.

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shaun R Hurley whose telephone number is (703) 605-1236. The examiner can normally be reached on Mon - Fri, 7:00am - 4:00pm, off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J Calvert can be reached on (703) 305-1025. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

SRH
30 September 2003


JOHN J. CALVERT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700